



Guide for

Vessel Brokers & Dealers

2004

FORWARD

This manual was created cooperatively between the Department of Revenue (DOR) and vessel industry representatives. It explains the applications of DOR administered excise tax law with references to statutory authority. It is intended to assist the vessel industry and DOR employees by providing a clearer understanding and consistent application of tax law as it relates to vessel transactions. This manual is a tangible example of DOR and industry efforts to achieve "good faith" in their dealings with one another.

Every attempt was made to ensure that regular vessel industry business practices were addressed in the following pages. Situations or transactions which are unusual may require a business to request a binding written ruling for their particular facts. Refer to the resource section of this manual for where to write for a tax ruling.

DOR extends a special thank you to the Northwest Yacht Brokers Association and Northwest Marine Trade Association for their extensive support in creating and producing this manual.

The contents of this manual are not intended to supersede any laws, rules, instructional notices/letters or other tax decisions.

Washington State has adopted certain definitions based on the national Streamlined Sales and Use Tax Agreement. SB 5783 (Chapter 168, Laws of 2003). Effective July 1, 2004, the definitions of tangible personal property and leases and rentals will change based on the definitions in SB 5783. These changes may affect the application of **retail sales tax** to sales and leases of tangible personal property including boats.

Additionally, to more fully conform with the national Streamlined Sales and Use Tax Agreement, the state of Washington **may** enact legislation to change the "place of sale" on sales of tangible personal property from the place where the goods originate (the seller's place) to the place of destination (the buyer's place). If such legislation is enacted, the Department will notify affected parties of the changes. However, because of the complexity of the issues discussed herein, we do not commit to providing another update of this publication. We would make every effort, depending on available resources, to provide a **supplement** to this publication on how such possible changes may affect boat transactions.



TAXPAYER RIGHTS AND RESPONSIBILITIES

THE TAXPAYERS OF THE STATE OF WASHINGTON HAVE THE

RIGHT TO:

- ◆ Simple and prompt administrative process for tax refunds and credits.
- ◆ Timely, fair and equitable treatment with dignity and respect.
- ◆ Accurate written information on reporting instructions, appeal procedures, refund claims and reasons for assessment.
- ◆ Public hearings on proposed rules.
- ◆ Review and appeal of assessments, business registration revocation, and adverse rulings.
- ◆ Remedies when statutes and rules are found to be unconstitutional.
- ◆ Confidentiality of financial and business information.

RESPONSIBILITY TO:

- ◆ Register with the Department of Revenue.
- ◆ Know their tax reporting obligations and seek instructions when they are uncertain.
- ◆ Keep accurate and complete business records.
- ◆ File returns and pay taxes in a timely manner.
- ◆ Ensure the accuracy of the information entered on their tax returns.
- ◆ Substantiate claims for refund.
- ◆ Notify the Department of Revenue and pay taxes promptly when closing a business.

RCW 82.32A



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BUSINESS REGISTRATION**SECTION 1*****Business Registration Requirements***

Persons engaging in taxable business activity in Washington shall apply for and obtain a tax registration certificate with the Department of Revenue. Business activity creating a registration and/or reporting requirement includes:

- value of products, gross proceeds of sales, or gross income of the business, from all business activities, totaling \$12,000 or more per year;
- persons required to collect or pay to the Department of Revenue any other tax which the department is authorized to collect (e.g. retail sales tax and commercial vessel tax);
- persons required to obtain a license or registration subject to the Master Application procedure provided in Chapter 19.02 RCW. The term “license or registration” means any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity (e.g. Vessel Dealer License). (Chapters 82.04 and 82.16 RCW, WAC 458-20-101)

Registration Process

The Unified Business Identifier (UBI) program simplifies Washington’s registration and licensing requirements. Completion of the Master Application enables the business person to register or apply for licenses with several state agencies, including the Department of Revenue, using a single form.

Master Applications are available at any participating UBI agency office. The following agencies participate in the UBI program:

Revenue	1-800-647-7706 http://dor.wa.gov/
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Secretary of State	(360) 753-7121 http://www.secstate.wa.gov/
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Licensing	(360) 902-3600 http://www.wa.gov/dol/
Employment Security	(360) 902-9399 http://www.wa.gov/esd/
Labor and Industries	(360) 902-5800 http://www.lni.wa.gov/

The Department of Revenue does not charge a registration fee for issuing a tax certificate. Persons required to complete a Master Application may, however, be subject to other fees.

Display of Registration

Taxpayers must display the registration certificate in a conspicuous location at the place of business.
(RCW 82.32.030, WAC 458-20-101)

Multiple Locations

A registration certificate is required for each place of business at which the taxpayer engages in business activities.

A taxpayer wishing to report all tax liability on a single excise tax return may request a separate registration certificate for each location. All registration certificates will reflect the same registration number.

A taxpayer desiring to file a separate excise tax return covering a branch location may apply for and receive a separate Revenue registration number. A registration certificate will be issued for each registration number and will represent a separate account.

To obtain a separate registration certificate, Revenue registration number, or additional business license for a new location, a new Master Application must be completed. (WAC 458-20-101)

Change in Ownership

When a change in ownership or legal entity occurs, a new Master Application must be completed and filed. The original certificate must be destroyed. Any further use of the prior owner's registration number after closing and final tax reporting is prohibited.

Address/Location Change

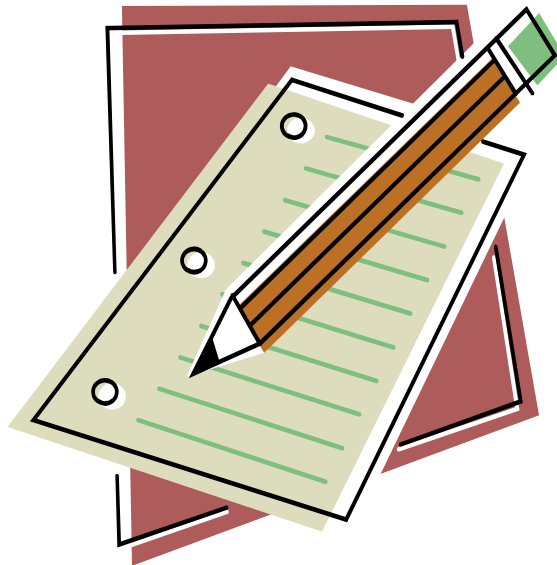
If a business moves to a new location or changes its mailing address, the taxpayer must notify the Department of the change. A new registration certificate will be issued to reflect the change.

Tax Return Reporting Frequency

Unless otherwise provided by the Department, a taxpayer shall report and pay taxes due according to the following schedule:

- Monthly: More than \$4,800 annual estimated tax liability
- Quarterly: \$1,050 to 4,800 annual estimated tax liability
- Annual: Less than \$1,050 annual estimated tax liability

The Department regularly reviews the frequency status of tax registrations and notifies taxpayers when changes are necessary. Taxpayers may also request a change of reporting frequency, although the Department must approve the change for it to be effective. The Department provides at least 30 days advance written notice to you before your filing frequency is changed. (WAC 458-20-101)



When to File a Tax Return

Small businesses may be relieved from filing tax returns when they meet certain requirements. Although these businesses are not required to file a tax return they still must register their business. Businesses meeting the requirements listed below may request to be put on an active nonreporting status. Also the Department may convert qualifying taxpayers to this status and inform the taxpayers of such action. Business' assigned a non-reporting status must review their records once a year to ensure compliance with the Department's reporting methods.

Businesses will be exempted from filing tax returns if they meet the following requirements:

- Business activity does not require sales tax to be collected.
- Gross income or value of products sold, subject to business and occupation tax, is less than \$28,000 per year.
- Gross income or value of products sold, subject to Public Utility Tax, is less than \$24,000 per year, and
- No other tax or fee is required to be collected or paid to the Department of Revenue.
(WAC 458-20-101 and WAC 458-20-104)



RESALE CERTIFICATES**SECTION 2*****Resale Certificate***

A resale certificate is a document given by a buyer to a seller to substantiate the wholesale nature of a sale. The buyer is authorized to provide a resale certificate to the seller if the article or service:

- is purchased for resale in the regular course of business without intervening use,
- is an ingredient or component part of goods produced for sale in the regular course of business, or
- is a chemical used in processing a new article of tangible personal property produced for sale.
(WAC 458-20-102)

Using Resale Certificates

There are two ways to use resale certificates. A **single use certificate** is given to the seller at the time of purchase, and is good for the one purchase only. A **blanket resale certificate** is given to the seller when a buyer makes frequent wholesale purchases at the business location.

Certificate Requirements

The following information must be on the resale certificate:

- a) Buyer's name and address,
- b) Buyer's type of business,
- c) Buyer's Registration/UBI number,
- d) Types of goods purchased,
- e) Current date,
- f) Signature of authorized buyer,
- g) Name of the seller, and
- h) A statement acknowledging responsibility for the purchase and the 50 percent penalty for misuse.

Resale Certificate Forms

You may create your own resale certificate as long as it contains the above information. You may also reproduce and use the resale certificate sample that is included in this section.

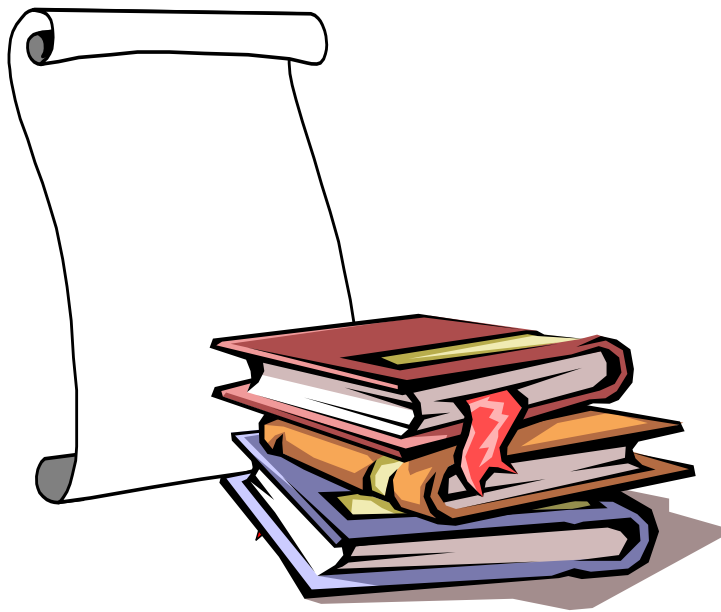
Rules for Resale Certificates

A resale certificate must be kept in the files of the seller to document the wholesale nature of a sale (why no sales tax was collected). Simply having a UBI number on the top of an invoice is not sufficient.

A seller may accept a facsimile (FAX) of a resale certificate.

Blanket resale certificates **must be updated** every four years. Sellers must keep resale certificates with their business records for five years after the last purchase covered by the certificate. (RCW 82.32.070, WAC 458-20-254)

The seller will be held responsible for the sales tax if no resale certificate documents the exempt nature of a sale.





State of Washington
Department of Revenue

RESALE CERTIFICATE

1. Name of Seller: _____
2. Name of Buyer/Business: _____
3. Address of Buyer: _____

Street
City, State
Zip Code
4. Buyer's UBI/Revenue Registration Number: _____
5. Buyer is in the business of: _____
6. Types if items purchased for resale: _____

The buyer certifies that it is purchasing the items listed on line 6 (please check appropriate box):

- ☐ *for resale in the regular course of business without intervening use.*
- ☐ *for use as an ingredient or component part of a new article of tangible personal property to be produced for sale,*
- ☐ *as a chemical to be used in processing a new article of tangible personal property to be produced for sale, or*
- ☐ *for use as feed, seed, seedlings, fertilizer, or spray materials in its capacity as a farmer.*

*The buyer acknowledges that it is solely responsible for purchasing within the categories listed on line 6. The buyer acknowledges that misuse of the resale privilege subjects the buyer to a **penalty of 50 percent of the tax due**, in addition to the tax, interest, and any other penalties imposed by law.*

Print Name: _____
 Name of Person Authorized By the Buyer to Sign the Resale Certificate

Signature: _____
 Signature of Authorized Agent of the Buyer

Effective Date: _____ through _____
 (Not To Exceed 4 Years)

Date Signed: _____
 Seller must maintain a copy. **Please do not send to Department of Revenue.**
 Reference Rule and Statue (RCW 82.08.130 and WAC 458.20.102)

To inquire about the availability of this document in an alternate format for the visually impaired or a language other than English, please call (360) 486-2342. Teletype (TTY) users may call (800) 451-7985. You may also access tax information on our Internet home page at <http://dor.wa.gov/>. REV 27 0020 (8-28-97)

RETAIL SALES TAX**SECTION 3*****Retail Sales Tax –
State and Local***

Retail sales tax applies to the selling price of taxable transactions, and must be separately stated on the billing to the customer. (RCW 82.08.040)

When a Retail Sale Occurs

Sales tax is imposed when tangible personal property is sold and delivered from the seller to the buyer (consumer). **Delivery occurs at the point when the seller transfers possession of the vessel to the buyer.** Additionally, sales tax applies when retail services are performed for or provided to a consumer, including the improvement or repair of real or personal property, amusement and recreational activities and certain other services and activities. (RCW 82.04.050)

Who Collects Retail Sales Tax

Sales tax will be paid by the buyer to the seller, and each seller will collect from the buyer the full amount of the tax. **Vessel brokers and dealers are defined as sellers under RCW 82.08.050.** Therefore, brokers/dealers are required to collect and remit sales tax to the Department of Revenue with their returns.

Q&A

Question 1 : Is a Washington dealer/broker required to collect sales tax if a boat is delivered to a Washington resident at an out-of-state location?

Answer 1: The seller, agent, or broker is not required to collect Washington sales tax when delivery is made at an out-of-state location. Sellers must file a report of sale as outlined in rule 159 and must maintain documentation of out-of-state delivery. Refer to detailed discussion in section 9-A.

Question 2: Are escrow agents required to collect and remit sales tax?

Answer 2: No. The vessel broker or dealer is considered the seller and is the one responsible for the collection and remittance of the sales tax. Generally, an escrow agent is not required to collect and remit sales tax because they are not defined as a “seller” under RCW 82.08.010.

Question 3: When a third-party acts as a closer in a vessel sale and collects and remits sales tax on the sale at the time of registration, is the vessel dealer/broker relieved of the tax collection liability?

Answer 3: If the vessel dealer/broker can document conclusively that another party has collected and remitted the correct amount of **sales tax** to the Department of Revenue, the dealer/broker will not be held responsible for the tax.

However, if the closing agent who is also acting as an agent of the vessel broker/dealer pays use tax to the Department of Licensing, (instead of sales tax to the Department of Revenue) and this results in an underpayment of tax, the vessel dealer will be held responsible for the underpaid tax.

Retail Sales Tax Rates

Brokers/Dealers must collect sales tax based on the sales tax rate for the place of sale.

The Department mails businesses a quarterly location code sheet that lists all local jurisdictions, their location codes, and the current local tax rates. If you are unsure about which local code should be used, take advantage of the Department of Revenue's Geographic Information System (GIS) lookup feature located on our web site at: **<http://dor.wa.gov>**.

Place of Sale

With regard to sales of tangible personal property, at the time of the publication of this guide, the place of sale is the place at which or from delivery of the goods is made to the buyer (origination). However, if subsequent to the publication date of this guide, the state of Washington enacts legislation to conform with the national Streamline Sales Tax Agreement with regard to sourcing sales, the place of sale may at that time may become the place where delivery is made to the buyer (destination).

The location of a third party closer does not affect the place of sale.

However, when goods are installed in this state by the seller or someone the seller contracts with, the total contract price (the charge for the goods plus the charge for the services) is coded according to the place where the services are primarily performed.

Example: A radio communications systems dealer located outside of Washington sells a communication system for \$10,000 and agrees to install it for an additional \$1,000 to a boat owner located in Bellingham. The entire transaction \$11,000 (\$10,000 price of the equipment plus \$1,000 for the installation) will be subject to the local tax levied by the jurisdiction in which the services are performed (Bellingham).

Out-of-state sellers: When a local in-state facility, agent or other representative of the seller participated in the transaction in some manner, the location of the local facility, agent, etc., will determine the sales tax rate (this assumes there are no local services, i.e., installation, involved in the sale). (WAC 458-20-145).

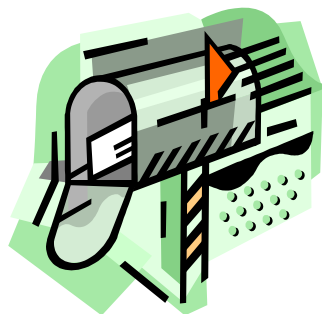
Example: An Anacortes resident purchases a vessel from a dealer or broker located in Seattle. The resident takes delivery of the vessel in Bellingham. The current Seattle sales tax rate is collected on the sale of the vessel because the origination of the vessel was Seattle. The destination *does not* currently determine the local tax rate in this type of sale.

Freight and Delivery Charges

Freight and delivery costs charged to the buyer are considered part of the selling price. These charges are subject to the retail sales tax and B&O tax.

Sales Tax Exemptions

Various exemptions and deferrals to retail sales tax exist.



USE TAX**SECTION 4*****Use Tax***

Use tax is imposed for the use of goods in Washington where sales tax has not been paid. Goods used in this state are subject to either the sales or use tax, but not both, regardless of where or from whom the property was purchased or acquired. (Chapter 82.12 RCW and WAC 458-20-178)

When Use Tax is Due

Use tax applies at the time of first use within this state if retail sales tax was not due at the time of acquisition.

If goods were acquired in a manner where sales tax should have been paid, but was not paid, **deferred sales tax** is due instead of use tax.

Amount Subject to Use Tax

Generally, use tax applies to the fair market value of the goods when they are first put to use in Washington. The use tax applies to the value of the article used which as of June 1, 2002 includes any charges paid to the seller for freight, delivery or shipping. (Chapter 367, Laws of 2002)

First use will generally be considered the time at which property first comes to rest in Washington (e.g., moorage location). Items which are purchased without payment of the retail sales tax and are immediately put to use in Washington are generally subject to the use tax measured by the purchase price. The purchase price includes any freight, shipping and delivery charges paid to the seller.

For use tax purposes, the value of the goods is the current fair market value when use occurs prior to entering Washington. When the item is used immediately in Washington upon purchase outside this state, the taxable value is generally the purchase price. In some instances, the purchase price does not represent fair market value. In such cases, the taxable value will be adjusted upward to reflect the fair market value. Value is generally determined by comparison of selling price to similar products of like quality and character, valuation guides, or appraisal of the property. (WAC 458-20-178)

	<p>The value subject to use tax for vessel dealers and vessel manufacturers for their intervening use of a vessel held exclusively for sale is the fair rental value of the vessel for the time of such intervening use. (RCW 82.12.802)</p>
<i>Sales or Use Tax Previously Paid</i>	<p>When tangible personal property is purchased and used out-of-state and sales or use tax has been paid at the location where the purchase occurred, a dollar-for-dollar credit may be taken to reduce the amount of use tax liability incurred in Washington. (RCW 82.12.035)</p>
<i>Rate of Use Tax</i>	<p>Like retail sales tax, use tax is a combination of state and local rates. The Department mails to businesses a quarterly location code sheet that lists all local jurisdictions, their location codes, and the current local tax rates.</p>
<i>Intervening/Personal Use</i>	<p>Property purchased without payment of sales tax is subject to use tax (or deferred sales tax) when there is intervening use of the property as defined in the glossary even if such property is subsequently sold.</p>
<i>Use Tax on Supplies</i>	<p>Use tax (or deferred sales tax) applies on items of tangible personal property acquired without payment of sales tax for which there is intervening use. This is true even when the cost for the property is itemized or subsequently billed to the customer. Examples include such items as shop rags and masking tape.</p>
<i>Use Tax on Display Merchandise</i>	<p>Use tax does not apply “to the brief and superficial use which occurs when articles held for sale are displayed in single trade shows (boat shows, home shows, auto shows, agricultural fairs, conventions, etc.) for short periods, or are used in floor or window displays, and are then sold as new merchandise. As a general guide, such articles will be deemed to have been substantially used, and subject to the use tax, when carried in the taxpayer’s books of account as demonstrator or display merchandise, or when so extensively used for demonstration or display purposes that they can no longer be sold as new merchandise.” (ETA 332.12.178)</p>
<i>Reporting and Paying Use Tax</i>	<p>Use tax on property required to be licensed (i.e. vehicles and vessels) will be collected at the time of licensing or registration. It is important to note that tax use tax is paid in this way only when the property is acquired in a way that Washington sales tax does not apply.</p>

Generally, consumers must pay use tax on unlicensed property on their *Excise Tax Return* (if they are a registered businesses) or by using a *Consumer Use Tax Return (if they are an individual)*. Some out-of-state sellers will collect and remit Washington use tax from customers. The buyer must maintain documentary evidence of the use tax payment.

Use tax applies if a vessel is acquired in a way that sales tax did not apply. This may include any vessel acquired outside of Washington, or a vessel purchased from a private party in a transaction that did not involve a vessel broker. Since vessels are required to be licensed, in these situations the use tax is paid to the Department of Licensing upon registration.

BOAT SALES**SECTION 5****Boat Dealer**

A boat dealer is one who is engaged in selling boats owned by the dealer.

Boat Broker

A **boat broker** is a person who, for a commission or fee, brings buyers and sellers together and assists in negotiating transactions between them.
(WAC 458-20-159)

Reporting Requirements

Reporting requirements of dealers selling vessels they own differ from that of brokers selling vessels owned by others.

Dealers making retail sales to consumers report under the retailing B&O tax classification and collect retail sales tax.

Dealers selling boats for subsequent resale (without intervening use by the buyer) may accept a valid resale certificate from the wholesale buyer. In this case, the sale is reported under the wholesaling B&O tax classification and sales tax is not collected.

Brokers report their commissions under the service and other activities B&O tax. They could also have other reporting requirements based on the following:

Brokers selling property **in their own name** report such sales under either the retailing or wholesaling classification B&O tax (based on whether a valid resale certificate is received) on the full amount of the sale (selling price).

Brokers that make retail sales of **property in the name of the boat owner** and who maintain records distinguishing such transactions in accordance with WAC 458-20-159 (Consignees, bailees, factors, agents, and auctioneers), must report such income under the *retailing* B&O tax classification. Sellers in this case are allowed to take a deduction under the retailing classification for the same amounts (identify as “*income reported as an agent*”). The net effect is that only the commission income will be subject to the Service business and occupation tax.

In addition, these brokers must report sales to consumers under the retail sales tax classification (or the use tax classification if there was no instate participation in the sale).

Where the boat owner is otherwise engaging in business in this state and has a tax registration with the Department of Revenue, the broker may pay the collected sales tax to the boat owner who would be responsible for remitting it to the Department. In this case, the broker could take a deduction from retail sales tax for such charter income, identify as “*sales tax reported by owner.*” See WAC 458-20-159.

In all cases, for the Department to recognize a valid broker or agent relationship, the books, records, and sales contracts or agreements must meet the conditions explained in WAC 458-20-159. These conditions are:

- The books and records of the broker show the transactions were made in the name and for the actual account of the principal, and show the name of the actual owner of the property for whom the sale was made, or the actual buyer for whom the purchase was made; and
- The books and records show the amount of gross sales, the amount of commissions and any other incidental income derived by the broker or agent from such sales.

Exceptions to the Sales Tax Collection Obligation

Brokers will be relieved from liability for the collection of the sales tax from buyers in those cases where they receive a commission on the sale and the entire transaction is closed directly between the owner and the buyer, and such sales are reported to the Department via the broker’s Transaction Report. After receiving compensation from the transaction, brokers have **10 days** to report the sale to the Department. **This provision applies to both listing brokers and selling brokers.**

Brokers need to maintain in their records a copy of the Report of Sale, listing agreement, Department of Licensing records of purchase (per RCW 88.02.210 and 220), title documents or other such documents to be relieved of sales tax collection obligation.

NOTE: Sales which close in the presence, control or knowledge of the selling broker who receives compensation from the sale are not exempted from the obligation to collect retail sales tax.

Broker Sales and Trade-ins

Valid like-kind trade-ins reduce the measure of the retail sales tax when the owner or the broker/dealer accepts the traded-in property as payment or consideration.

Out-of-State Brokers

Brokers located outside of Washington, but with Washington nexus, must register and report in the same manner as in-state businesses. (WAC 458-20-193)

Co-Brokering

Co-brokering means a sale which is facilitated between two or more boat brokers. The commission fee is taxed according to **the pre-determined conditions** of the listing agreement.

When no special commission splits/arrangements (either by percentage or set dollar amount) are authorized by the owner prior to the time of granting authority to sell as a broker, the person entitled to the commission pursuant to the listing agreement must pay B&O tax on the full amount of the commission even if they subsequently disburse a portion of the funds to another broker outside of contract requirements. (See co-broker example below.) (Chapter 82.04 RCW)

For tax purposes, the owner of the boat must authorize a split commission in order for the listing broker to report only the actual amount of commission retained. An example of suitable language for listing agreements that authorizes a split commission is:

If a cooperative Brokerage situation occurs, whereby the Listing Broker is not the Selling Broker, the Owner agrees to pay the Listing Broker and the Selling Broker a total commission, not to exceed XX percent (XX percent) of the gross selling price of the vessel. The commission split shall be determined at the time of negotiating the sale. This agreed commission split shall be disclosed in writing, and this written disclosure shall become a part of this Agreement. These fees shall be paid directly to each independent Broker at the time the sale is closed.

***Co-Brokers and Retail
Sales Tax***

Generally, either the listing broker or the selling broker can be responsible for collecting and remitting the sales tax on a boat sale due to the cooperative nature of their relationship to the sale. See Broker's Transaction Report sample at the end of this section. (WAC 458-20-221)

Co-Broker Example

Example: Broker A is the listing agent for a \$100,000 motor boat. Broker B has a buyer for the vessel and therefore becomes the selling agent. Both Brokers are located in Washington. The listing agreement/contract and any amendments authorizes Broker A to enter into co-brokerage agreement with other Brokers to facilitate the sale of the vessel. In this example, the percentages which may be negotiated are specified, in this case seven percent for Broker B and three percent for Broker A (a total of 10 percent of the selling price). XYZ Title Services handles the documentation and disburses funds. Broker B receives a commission for \$7,000 and Broker A gets \$3,000.

Each broker reports the commission they each actually retain.***Vessel repairs by brokers***

At times a broker will make repairs or have others make repairs to an owner's vessel. A broker may use a resale certificate to make these purchases. In such situations, the broker must collect retail sales tax from the selling watercraft owner for the amount of the repairs. The fact that the watercraft will be sold to a new owner, who pays sales tax on the watercraft purchase price, does not relieve the selling owner from the obligation to pay sales tax on the repairs.

An **exception** would apply if the prior owner was a licensed and registered vessel dealer authorized to purchase for resale. In this event, they must provide the broker with a valid resale certificate.

REPORT OF SALE**COMPANY NAME****ADDRESS****TELEPHONE**

UBI NUMBER: _____ - _____ - _____

TO: STATE OF WASHINGTON
Department of Revenue
TAA - External Operations
P.O. Box 47476
Olympia, Washington 98504-7476

We have received a Brokerage Commission on the sale of the below stated item. The transaction was closed between the buyer and the seller, and we were unable to collect retail sales tax. We therefore submit the following information in accordance with Washington State Revenue Code (WAC 458-20-159).

AMOUNT OF SALE: \$ _____

APPROXIMATE DATE OF SALE: _____

DESCRIPTION (MAKE, MODEL, YEAR): _____

HULL IDENTIFICATION NUMBER: _____

OFFICIAL NO. or REGISTRATION NO. (IF KNOWN): _____

BUYER (NAME AND ADDRESS): _____

SELLER (NAME AND ADDRESS): _____

DATE: _____

SUBMITTED BY: _____
(COMPANY)

CHARTERS**SECTION 6*****Bare Boat Charter***

A bare boat charter occurs when a vessel is rented or leased to others and total dominion and control is provided to the customer. This means that the boat owner or the charter business cannot provide a captain or crew or be otherwise be present on the vessel during the charter. (WAC 458-20-211)

Vessel owners can place some general restrictions on vessel operation, such as requiring the lessee to hire a licensed skipper, limiting the number of passengers on board, and limiting where the vessel can be operated.

To avoid a tax liability for intervening use, the boat owner cannot be on board as a skipper or crew member, or guest. (WAC 458-20-211)

Lease or Rental

The terms “leasing” and “renting” are used interchangeably and refer generally to the act of granting to another the right of possession to, and use of, tangible personal property for consideration.

***Tax on Boats Purchased
Bare Boat Charter***

Vessels purchased **solely** for bare boat charters *are for* purchases for resale and are exempt from sales tax.

Sellers must retain a resale certificate in their records documenting the exempt sale.

The purchaser will be subject to use tax (based on the total value of the boat) if they engage in intervening use of the boat. Charter boat owners or businesses are not treated as vessel dealers. Therefore, intervening use of a charter boat is subject to tax on the full value not the rental value.

NOTE: Intervening use does not include activities in support of a bare boat charter business such as bona fide maintenance, fueling or delivery activities. Such activities will not trigger use tax liability. This is consistent with “dealer use” as identified in Section 7.

Purchaser Requirements

Purchasers of documented vessels for bare boat charter are generally required to register the vessel with the Department of Revenue, Special Programs Division and obtain a business registration from the Department of Revenue, Excise Tax Division.

Bare Boat Charter Tax Reporting

Typically, charter businesses operate in one of two ways. The following scenarios represent the most common business methods and how the activities are reported.

1. Company A leases boats from their owners then sub-leases them to the public.

- Company A collects and remits sales tax on bare boat charter fees and reports their gross receipts under retailing B&O tax.
- Vessel owners report wholesaling B&O tax on gross income from the lease to Company A.

In the above scenario, the owner may lease back the vessel from Company A, and pay sales tax on the **fair market rental rate** consistent with other consumers.

2. Company B is an agent (but not lessee) for the vessel owner and provides charter management services.

- Company B collects and remits sales tax on the bare boat charter fees and reports its commission earned under the service and other activities B&O tax classification. The charter fees are reported under the retailing B&O tax classification, however, a deduction is allowed as “Other - Consignment Sales” on the deduction page of the *Excise Tax Return*. (WAC 458-20-159)
- When Company B acts as an agent for a vessel owner, the owner cannot use the vessel without incurring a use tax liability. **Additionally, the owner may not allow employees of the owner to use the vessel for their pleasure at no charge, or for a charge below fair market value. This will be considered intervening use by the owner.** (WAC 458-20-178)

Leasebacks

The charter boat owner may personally use the boat and not owe use tax based on the value of the boat is only under the following circumstances: at the time of purchase or first possession in this state (if acquired out of state), the owner must immediately lease the boat to a third party on a long term basis.

The owner/lessor may then lease back the boat for shorter periods of time. In this case, the owner pays sales tax (to the third party) based on the fair rental value for the period of personal use.

In this case, the boat owner can use a resale certificate to purchase the boat. The owner would then lease the boat to the third party (obtaining a resale certificate from the third party).

The boat owner would report income from leasing the boat to the third party under wholesaling B&O tax.

The third party would report its income under retailing B&O tax and retail sales tax.

Skipped Charters

A skipped charter is the rental of a vessel with a captain and/or crew. The purchase of a vessel for skipped charters is subject to sales tax. A resale certificate cannot be used to purchase of vessels for skipped charter. (See resale certificate section.)

Charter Boat Repairs

Parts and labor for the repair and maintenance of charter vessels are taxed in the same manner as the vessel to which they are affiliated. If a vessel is operated for bare boat charter, the vessel was tax exempt at time of purchase. Therefore, repair/maintenance charges will also be considered to be purchased for resale, and exempt from sales tax.

Charter Examples

Example 1: John Doe purchased a vessel which will be rented to others as a bare boat rental. The rentals will be arranged through an agent at a marina.

This is not a leaseback situation. If it is anticipated that the boat owner will occasionally use the boat for personal pleasure, a resale certificate cannot be used to purchase the boat. Just because an agent is used to arrange charters, does not make this a leaseback situation.

Example 2: Jane Smith purchases a vessel to create a bare boat charter business and immediately signs an exclusive lease agreement with WWW Charter Company. WWW Charters sub-leases the vessel to members of the public. Ms. Smith occasionally rents the vessel from WWW for the same rate and terms as anyone else.

This is a leaseback situation. The vessel may be purchased by Ms. Smith with a resale certificate.

(Timeshare transactions are treated in the same manner.)

DEALER USE AND DEMONSTRATION**SECTION 7*****Registration Required***

A vessel dealer must register with the Department to operate as a business. See Business Registration, Section of this manual for registration types and instructions. (RCW 82.32.030, WAC 458-20-101)

The dealer must also be licensed and certified by the Department of Licensing. The Department of Licensing will issue a dealer license number and decals to use in operating inventory vessel which have a month and year expiration date. The license and decals are not to be permanently affixed to a vessel. (WAC 308-90-70, RCW 88.02.023)

Inventory Purchases

Vessel dealers may purchase items for resale without paying retail sales tax. To make tax exempt purchases for resale, the buyer must regularly engage in selling the type of property purchased and be registered with the Department of Revenue. (See **resale certificate** statement in Section 2.) (WAC 458-20-102)

CAUTION: Improper use of resale certificates for purchases shall result in a penalty of 50 percent of the tax due on the item(s), plus other penalties and interest. (WAC 458-20-102)

Tax on Dealer Use of Inventory

Any purchase of tangible personal property for use by the dealer as a consumer is subject to deferred retail sales or use tax.

“If a vessel held in inventory is used by a vessel dealer or vessel manufacturer for personal use, use tax shall be due based only on the reasonable rental value of the vessel (based on the number of days used), but only if the vessel dealer or manufacturer can show that the vessel is truly held for sale and that the dealer or manufacturer is and has been making good faith efforts to sell the vessel. The Department may by rule require dealers and manufacturers to provide logs or other documentation showing that vessels are truly held for sale.” (RCW 82.12.800 - 802)

When Use is Permitted

Use tax shall not apply to the following uses of a vessel by a dealer registered under Chapter 88.02 RCW:

- a) Activities to test, set-up, repair, remodel, evaluate, or otherwise make a vessel seaworthy, if the vessel is held for sale;
- b) Training activity of a dealer's employees, agents, or subcontractors involved in the sale of the dealer's vessels, if the vessel is held for sale;
- c) Activities to promote the sale of the dealer's vessels, to include photography and video sessions to be used in promotional materials; traveling directly to and from promotional vessel events for the express purpose of displaying a dealer's vessels for sale, provided it is displayed on the vessel that it is, in fact, for sale and the identification of the registered vessel dealer offering the vessel for sale is also displayed on the vessel;
- d) Any vessel loaned or donated to a civic, religious, nonprofit, or educational organization for continuous periods of use not exceeding 72 hours, or longer if approved by the Department; or to vessels loaned or donated to governmental entities;
- e) Direct transporting, displaying, or demonstrating any vessel at a wholesale or retail vessel show;
- f) Delivery of a vessel to a buyer, vessel manufacturer, registered vessel dealer as defined by RCW 88.02.010, or to any other person involved in the manufacturing or sale of that vessel for the purpose of the manufacturing or sale of that vessel; and
- g) Displaying, showing, and operating a vessel for sale to a prospective buyer to include the short-term testing, operating, and examining by a prospective buyer.

Also currently qualifying for exemption from use tax are: trailers or other similar apparatus used to transport, display, show, or operate a vessel, which is held for sale. (RCW 82.12.800 - 802)

These lists assume that use is limited to the stated purpose. Examples of "use" which may be disallowed in an audit or investigation are:

- operating an “employee training” session during a sporting event;
- stopping overnight at an island resort before returning an inventory vessel to its storage location;
- conducting sea trials or operating tests which include activities or ports of call above and beyond testing needs; and/or
- “fueling” a vessel on a holiday then participating in festivities before returning.

With these types of activities, the specifics of each situation will determine the application of tax on a case by case basis.

NOTE: Vessel dealer decals shall only be used to demonstrate vessels held for sale when operated for a prospective customer holding a dated demonstration permit, and shall be carried in the vessel at all times it is being operated by such individual. (RCW 88.02.023)

Documenting Valid Dealer Use

A number of records are available to document exempt use of inventory vessels. Examples can include vessel logs, earnest money agreements and demonstration permits.

Demonstration permits ***must be dated and carried on board*** when a prospective buyer is being shown the vessel offsite.

NOTE: RCW 88.02.023 (2) states that vessels may be used for dealer business, by an officer of a corporation, or proprietor, or by a bonafide employee of the firm if a card so identifying any such individual is carried during the time the vessel is operated. **This is a Department of Licensing exemption and does not provide an exemption for sales or use tax.**

Dealer Use Examples

Example 1: XYZ Yacht Manufacturer has scheduled the annual “rendezvous” for owners and potential buyers at Port Angel, a popular resort area. The manufacturer will not be displaying any vessels but will organize some training sessions and social events. The local dealer of XYZ Yachts has decided to display three inventory vessels at Port Angel during the rendezvous with hope of encouraging current owners to “buy up”, or to “hook up” with potential buyers. The largest of the vessels has an office set up in it for business

activities and the employees will all sleep in another vessel.

All three vessels were moved directly from moorage to the display location. Because one vessel is used as a business office and another provides living accommodations, use tax is due on these two based on the market rental value. (Prior to July 27, 1997, use tax would be due on the full market value of each vessel.) The third vessel is merely displayed and/or demonstrated to potential buyers and is not taxable.

Example 2: During Neptune Days in the area, many vessel dealers “lend” inventory to media for broadcasts during the model sailboat races. This activity results in free publicity for the dealer. The vessel is subsequently sold as new to a buyer.

The dealer owes use tax on the rental value of the vessel. Although the dealer did not use the vessel directly, they owe tax as the bailor of the boat. Taxable “use” was created with the dealer loaned the boat to the media.

MISCELLANEOUS INCOME**SECTION 8*****Other Income***

Miscellaneous fees and charges should not be overlooked. Even though these revenues are not directly associated with a broker or vessel dealer's primary business, they may still constitute taxable income for tax purposes. Identified below are some examples of broker or dealer activities that may create miscellaneous income that is taxable.

Marine Survey Fees

Charges for a marine survey only, with no repairs, are reported under the service and other B&O classification. If a repair is performed in conjunction with the survey, the entire charge will be subject to retailing B&O and retail sales tax. Repairs performed for a customer providing a valid resale certificate, are reported as wholesale sales, subject to the wholesaling B&O tax.

Advances and Reimbursements

An advance or reimbursement deduction from gross sales applies when the customer or client alone is liable for the payment of the fees or costs and when the broker/dealer making the payment has no personal liability for these payments, either primarily or secondarily, other than as agent for the customer or client. Examples would include title or conveyance fees, registration fees and license fees.
(WAC 458-20-111)

Freight and Delivery Charges

Generally, freight and delivery charges are part of the selling price. See WAC 458-20-110 for additional information.

Financing Fees, Penalties and Interest

Interest for financing sales, accounts receivable, late payments, or other penalties, are subject to the service and other B&O tax classification.
(WAC 458-20-109)

Interest related to a lease payment is an exception. Amounts categorized as interest in a lease payment are generally taxable as part of the total lease payment under retailing B&O and retail sales tax classifications on leases to consumers.
(WAC 458-20-211)

***Haul Out and
Dry Docking Fees***

These are charges made in conjunction with vessel repairs, marine surveys, vessel storage, etc. These charges involve the use of equipment to either lift, tow, or support the vessel and make it accessible to observe or perform services to the vessel hull.

Charges for haul out and dry-docking are retail sales (as rental of equipment/rental of equipment with an operator WAC 458-20-211) in all cases. A resale certificate may not be used to avoid the sales tax.

Finder Fees

Finder fees are taxable under the service and other B&O tax classification. This fee is taxable even though the other broker/dealer may have reported the gross commission received.

The selling broker generally reports the full commission received and cannot deduct the portion paid to the “finder” for the referral. The “finder” making the referral must report the fee they receive from the selling broker/dealer.

***Joint or Multi-State
Finder Fees***

If the selling broker is located in another state or country and does not render services in Washington, the commission earned by the selling broker is not taxable in this state. However, if the referring broker is located in Washington and provided services in Washington which contributed to the sale, then the referring broker’s portion of the commission is taxable.

Launch Fees

Fees for the use of a boat launch facility or ramp are taxable under the service and other B&O tax classification.

Moorage and Storage

The taxability of moorage and storage fees depends on the rental agreement contract. The rental of a boat moorage slip is considered to be a rental of real estate (exempt from excise tax) if a specific space, slip, or site is assigned and the rental is for a period of *30 days or* longer. Rental fees for less than 30 days, or unassigned moorage for any period of time, are taxable under the service and other activities B&O classification. (WAC 458-20-118)

The same applies to a mini-storage type of facility which moors or store boats.

Consumables

Charges to customers for supplies and other consumable items are subject to retail sales tax even though the dealer paid sales or use tax at the time of purchase or acquisition. Since the items are used before sale to the customer (intervening use) they do not qualify for the resale exemption. See section 4, use tax on supplies.

Casual Sales

A casual sale is a sale of tangible personal property by a registered taxpayer who does not normally sell the type of property involved. (RCW 82.04.040, WAC 458-20-106)

B&O tax does not apply to casual sales. On sales to consumers, the amount of the sale must be reported under the B&O tax, but a deduction may be taken on the deduction detail sheet for casual sales.

The retail sales tax must be collected on all casual sales made to consumers by businesses registered with the Department of Revenue.

Casual Sale Example

A vessel dealer upgrades their computer system and sells the old computer to an employee. The dealer is not in the business of selling computers, therefore, no B&O tax is due.

The dealer must charge the employee retail sales tax on the selling price of the computer.

OUT-OF-STATE DELIVERY SALES**SECTION 9-A*****Out-of-state Delivery***

When property such as vessels, trailers, and parts are sold under a condition that they will be delivered to the purchaser out-of-state and they are so delivered, no retail sales tax or retailing B&O tax is due.

The following documentary proof is required to sustain the exemption:

- The contract or agreement of sale (if any); and
- Shipped Through a For-hire Carrier—a Waybill, Bill of Lading, or other contract of carriage which indicates the seller has delivered the goods to the for-hire carrier for transport to the purchaser (or purchaser's agent) at a point outside the state. (The contract of carriage must reflect designations for the seller and purchaser such as consignor and consignee.)

OR,

- Delivered via Seller's Own Transportation Equipment—a trip-sheet signed by the person making delivery for the seller which records seller's name and address, purchaser's name and address, place and time of delivery to purchaser, and signature of the purchaser acknowledging receipt of goods outside of Washington.

Broker commissions earned in Washington are still subject to service and other B&O, even though delivery may be out-of-state.

B&O and Sales Tax Application

When goods are delivered in this state to a for-hire carrier, consolidator or forwarder who has express written authority to accept or reject the goods on behalf of a buyer, (whether such buyer is located outside of this state), delivery is treated as occurring in Washington. In this case, the seller is subject to B&O on the sale. (WAC 458-20-193)

On such sales to consumers, the retail sales tax is also due.

NONRESIDENT SALES AND USE**SECTION 9-B*****Nonresidents***

A nonresident of Washington is a person who enters the state on a transitory or temporary basis and does not maintain a legal presence or a residence on a full or part time basis.

Persons who reside in more than one state including Washington are generally considered residents of this state for sales/use tax purposes.

Exempt watercraft sales discussed in this section include residents of foreign countries. (RCW 82.08.02665 and WAC 458-20-238)

Vessel Sales to Nonresidents

Nonresidents of Washington may purchase vessels here without payment of sales or use tax when the vessel is US Coast Guard documented or pre-registered by the state or country in which the vessel will be principally used subsequent to sale and the vessel will be removed from Washington within 45 days of delivery.

There is no prescribed time that a boat must stay outside of Washington in order to fulfill the 45-day requirement for nonresidents to remove a boat.

Customs, moorage, fueling or other documentation may be used to show a boat has been removed from the state if it identifies conclusively the particular boat in question and the date it entered into or was in another state or country. **The date must be within 45-days of the boat having been purchased in Washington.**

Sellers must document a nonresident sale by obtaining the following:

- completed exemption certificate from the buyer (see individual and non-natural person examples); and
- a record of the required identification issued by the correct out of state jurisdiction (one piece must be a current operator's license or state identification with a photograph).

In addition, the seller should watch for indications of Washington residency, and should remind the

nonresident buyer that the vessel must be removed from Washington waters within 45 days of the date of purchase. (RCW 82.08.0266, WAC 458-20-238)

Nonresident Delivery/Sea Trials

If acceptance by the buyer is conditioned on the boat being seaworthy, delivery does not occur until the sale is finalized and accepted by the buyer. If the seller and the buyer participate in a sea-trial to determine its acceptability of the buyer, delivery has yet to occur until it has been accepted as seaworthy. Sea trials are limited to day trips of, generally, 2 to 3 hours. No overnight trips will be allowed as sea trials.

Nonresident Vessel Use

Nonresidents may use their properly registered vessel in Washington for a period not to exceed 60 days.

A properly registered vessel is

- one that has been registered or numbered under the laws of a country other than the United States; or
- having a valid United States customs service cruising license issued pursuant to 19 C.F.R. Sec. 4.94, or
- has been issued a valid number under federal law or by an approved issuing authority of the state of principal operation.

After the sixtieth day, a vessel owned by a nonresident becomes subject to registration in this state and also becomes subject to use tax based on the current value thereof **with the following exception:**

Vessels owned by nonresident individuals are

allowed to have their vessel in Washington for a period not to exceed 6 months in any consecutive 12 month period without incurring a registration and use tax obligation if before the 61st day of use in this state, the vessel has been issued a once-renewable 60-day cruise permit by the Department of Licensing indicating when the vessel first came into the state. Taken together, nonresident individuals are allowed to have a vessel in this state for 60 days without registration. After that, they may obtain a once-renewable 60-day cruise permit

from DOL. This equals 180 days of instate use without use tax being due. (RCW 88.02.030)

NOTE: Vessels purchased in Washington by nonresidents must still be removed within 45 days of purchase. Once removed from Washington waters, the vessel can return for the rest of the statutorily allowed nonresident use period. The vessel owner must prove that these requirements are met to sustain the exemption.

***Nonresident Temporary
Use Q&A***

Question 1: For nonresidents, how is the time that a boat is in Washington for “commissioning” treated for purposes of the 45-day period and the temporary use period.

Answer 1: “Commissioning” is the activity of providing upgraded instrumentation, equipment, appointments, etc. If a buyer contracts with a dealer to buy a certain boat, and the dealer contracts with a third party to “commission” it (e.g., add the necessary electronics gear), the 45-day period does not begin until the boat is delivered to the buyer (i.e., after the commissioning).

If the boat is first delivered to the customer and the customer hires a third party to do the commissioning, then delivery has occurred and the clock starts prior to commissioning. However, if the nonresident files a repair affidavit for the time that it is being commissioned, the clock would stop on the 45-day period within which a nonresident buyer must remove the boat from Washington for the purchase to be exempt from retail sales tax. The commissioning in this situation would be considered a repair activity for the purposes of the nonresident vessel repair affidavit.

Question 2: A nonresident purchases a boat from a Washington dealer/broker. Upon taking delivery of the boat, he needs two months of work done on the vessel for commissioning. He files a “Nonresident Out-of-State Vessel Repair Affidavit” with DOR. Does this stop the count down on the 45 days by which time he must have removed the boat from Washington waters?

Question 2 (continued): Does the 45-day count down then pick up again at the expiration of the “Nonresident Out-of-State Vessel Repair Affidavit” or whenever the repairs are complete, whichever comes first?

Answer 2: Yes, the repair affidavit stops the 45-day clock for the period of time for which the affidavit is valid and the boat is being exclusively repaired. The clock starts again when the affidavit expires or the repairs are (substantially) completed, whichever date comes first.

Question 3: Is the temporary use period for nonresidents computed on a calendar year basis or on a consecutive 12-month basis?

Answer 3: This time frame is based on any consecutive 12-month period.

Question 4: Are boats owned by nonresident trusts considered as being owned by an individual (natural person) or by a fictitious entity (non-natural person)?

Answer 4: Boats that have been irrevocably contributed to a trust are treated, as being owned by a fictitious entity (non-natural person) not an individual (natural person). Therefore, such boats owned by a trust that are nonresidents of Washington are not eligible for the extended temporary use accord vessels owned by natural persons.

Boats that have been contributed to a trust where the individual has the right to revoke that contribution and retake ownership of the boat are treated as being owned by an individual. Therefore, if the person that contributed the boat to the trust is a nonresident of Washington, the vessel is treated as being owned by a natural person.

***Nonresident Vessels
Held for Sale***

Nonresident vessels in Washington solely for the purpose of sale and held and/or controlled by vessel dealers or brokers are not subject to the statutory time limit for nonresident use. However, if the nonresident owner uses the vessel in Washington while it is held for sale, use tax is due.

Boat Trailers Sold to Nonresidents

Generally, to avoid use tax, a crew may not remain on the vessel during the time it is held for sale in this state.

Boat trailers sold to nonresidents are exempt from retail sales tax if the dealer obtains a completed exemption certificate which establishes:

- the purchaser is a bonafide nonresident of this state with the requisite identification and the trailer is for use outside of Washington; and
- the trailer will be removed from their premises under the authority of either a trip permit or valid license plates issued to that property by the state of the purchaser's residence (such plates must be affixed to the trailer upon final delivery). (WAC 458-20-177)

Parts Sold to Nonresidents

Component parts which are installed by the vessel dealer prior to its delivery and acceptance by the buyer are taxed in the same manner as the vessel itself.

Sales of unattached component parts to residents of jurisdictions which do not impose a retail sales tax of three percent or more are exempt when they are purchased for use outside Washington and nonresident status can be satisfactorily proved. However, the seller is not obligated to make such a tax exempt sale. (RCW 82.08.0273)

Refer to Excise Tax Advisory 2014 for further information.

Parts Sold to Nonresident Corporations

Nonresident corporations are required to obtain a Corporate Nonresident Permit from the Department prior to making tax exempt purchases. These steps will ensure the timeliest response to a permit request:

- Send a written request bearing the signature of a Corporate Officer which certifies; "All tangible personal property purchased in connection with the use of this permit will be purchases for the use and consumption outside of Washington state. The Corporation will agree to make its records available to representatives of Washington State Department of Revenue for verification of purchases";

- Attach a copy of the Corporation's Certificate of Incorporation OR the first page of the Articles of Incorporation; and
- Mail the original copy of request and attachment(s) to Department of Revenue, PO Box 47476, Attention: Business Registration Team, Olympia, WA 98504-7476.

Rush requests can be faxed to (306) 902-7064. An original copy must still be mailed. (WAC 458-20-238)

NOTE: Repair labor is not exempt from sales/use tax.

Nonresident Vessel Repairs

The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all of the facts and circumstances. In all examples, retailing B&O tax is due from the seller for all sales of watercraft and parts, and all charges for repair parts and labor.

Example 1: Company A sells a vessel to Jane Smith, a Canadian resident. Company A examines Jane Smith's driver's license to verify Jane to be a resident of Canada, and retains the proper exemption certificate at the time of sale. Delivery is made in Washington and Jane removes the vessel from Washington waters within 45 days of delivery. The sale of the vessel is not subject to the retail sales tax because all requirements for exemption under RCW 82.08.02665 have been satisfied.

Example 2: Mr. Jones, a California resident, contracts with Company B to manufacture a pleasure yacht. Mr. Jones purchases a boat motor from Company Y with instructions that delivery be made to Company B for installation on the yacht. The yacht is required to be registered with the state of California, which has assumed the registration and numbering function under the Federal Boating Act of 1958. Company B examines Mr. Jones' driver's license to verify Mr. Jones is a nonresident of Washington, and retains the proper exemption certificate at the time of sale. Delivery is made in Washington, and Mr. Jones removes the vessel from Washington waters within 45 days of delivery.

The sale of the yacht by Company B to Mr. Jones is not subject to the retail sales tax, as the requirements and conditions for exemption have been satisfied. Retail sales tax does, however, apply to the sale of the motor by Company Y to Mr. Jones. The exemption provided by RCW 82.08.0266 does not extend to a separate seller of unattached component parts, even though the parts are installed in the watercraft prior to delivery.

Example 3: Mr. Smith, a resident of California, brings his yacht into Washington for repair. Extensive repairs and testing require the yacht to remain in Washington waters for 90 days. Mr. Smith extends the exemption period by filing a "Nonresident Out-of-state Vessel Repair Affidavit" with the Department of Revenue prior to end of the initial 60 exemption period. An employee of the repair facility is on board the yacht during all testing, and there is no personal use by Mr. Smith during this period. Upon completion, Mr. Smith takes delivery at the repair facility and promptly removes the yacht from Washington waters.

Mr. Smith has not incurred a use tax liability on his yacht. The conditions and requirements exempting the yacht from use tax during the period of repair and testing have been met. However, retail sales tax is due, and must be paid, on all charges for repair parts and labor. The exemption from sales tax for purchases of vessels does not extend to repairs. (WAC 458-20-238)

Nonresident Military

See Military Exemptions in this publication.

Nonresident Sales Example

Example 1: John Blair is a resident of another state and has no known ties to Washington. Mr. Blair purchases a vessel from OK Boats, a dealer in Port Angeles. Mr. Blair intends to finish his visit with friends in the area for another three weeks before returning to his home state with his new boat. OK Boats obtains a completed nonresident exemption certificate from Mr. Blair, records Mr. Blair's home state driver's license (which has his picture on it) and informs him that having the boat in Washington beyond 45 days could create a tax liability.

OK Boats reports the sale amount on the retailing B&O and retail sales tax lines takes a retail sales tax deduction for the amount of this sale. The exemption certificate and related documentation must be retained by the dealer in the event of review/verification by the Department.



EXEMPTION CERTIFICATE

Seller's Name _____

Buyer's Name _____

Address of Buyer _____

State of Foreign Country of Residence _____

Date of Sale _____

Make and Model of Vessel _____

Serial or Hull Identification Number of Vessel _____

I certify that (a) the vessel described above will be registered or documented with the United States Coast Guard or the state of principle use; or (b) I am a resident of a foreign country and the vessel has been purchased for use outside the state of Washington. I further certify that this vessel will leave Washington state waters within 45 days of delivery, and the purchase of this vessel is exempt from Washington retail sales tax under the provisions of either RCW 82.08.0266 or 82.08.0265. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Signature of buyer or buyer's representative _____

CERTIFICATION BY SELLER

I hereby certify that I have personally examined one of the following items of documentary evidence submitted by the above purchaser to establish residency in the state or country of _____:

Driver's License (list license number and date of expiration) _____

Identification Card (list card number and date of expiration) _____

Signature of seller or agent of seller _____

(WAC 458-20-238)

AFFIDAVIT OF OUT-OF-STATE RESIDENCY

(This affidavit is for use only by purchasers who are not natural persons, such as corporations.)

Name of Buyer _____

Address _____

State or foreign country of residency _____

Registration # _____

Type of entity (e.g. corporation, partnership, etc.) _____

I certify that (buyer's name) _____ is a resident of (state or foreign country) _____ .

Name of buyer's representative (printed) _____

Signature of buyer's representative _____

(WAC 458-20-238)

AFFIDAVIT

For use by a **NONRESIDENT** buyer of a vehicle/trailer transporting the same outside this state under the authority of:

- (a) ___ Trip permit
(b) ___ Nonresident license plates (check appropriate box)

STATE of WASHINGTON }

}ss.

COUNTY of }

_____(Purchaser), being first duly sworn on oath, deposes and says:
That he is a bonafide resident of the State of _____ and that his address is

_____, _____, _____, _____;
That on this date he has purchased from (dealer) _____ the following
described vehicle/trailer, to-wit:

Make _____ Model _____

Year _____ Serial/Motor Number _____

and that said vehicle is being purchased for use outside this state and that the same will be driven from the premises of the dealer under the authority of (a) a trip permit numbered _____ which has been issued to him authorizing the transit of said vehicle/trailer, or, (b) that said vehicle/trailer is being purchased for use outside this state and will not be used in the State of Washington for more than three months; and that the affiant has licensed said vehicle in the state of _____ and has had issued to him by that state license plates numbered _____ which are valid until (expiration date) _____ and that said plates have been affixed to said vehicle/trailer prior to the time it has left the premises of the dealer. WAC 458-20-177.

Dated at _____, Washington, this _____ day of _____, _____.

(Signature)

Service No. if Member of Armed Services _____

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public in and for the State of Washington,
residing at _____

SALE TO NATIVE AMERICANS**SECTION 9-C*****Qualifying as a Native American***

For tax purposes, a Native American is a person duly registered on the tribal rolls of the tribe occupying a Native American reservation and, for retail sales tax purposes, a person duly registered on the tribal roles of the reservation.

Partnerships

A partnership consisting only of Native American partners is considered "Native American." (When some partners are non-Native American, it is not considered "Native American.")

Corporations

Corporations formed under the authority of the tribe will be considered "Native American."

Marital Communities

Marital communities consisting of Native Americans or a Native American and a non-Native American will be considered "Native American" if all other qualifications are met.

Sales Tax Exemption

Retail sales tax must be collected on transactions when Native Americans are the customers unless delivery of the property being sold occurs in Indian Country. See WAC 458-20-192 for the definition of "Indian Country"

The following information must be documented in the seller's records: tribal affiliation or tribal identification information and the customer's name.

Currently Recognized Native American Tribes in Washington

Chehalis Confederated	Colville Confederated
Cowlitz	Hoh
Jamestown S' Klallam	Kalispel
Lower Elwha Klallam	Lummi Nation
Makah	Muckleshoot
Nisqually	Nooksack
Port Gamble S' Klallam	Puyallup
Quileute	Quinault Nation
Samish Nation	Sauk-Suaittle
Shoalwater Bay	Skokomish
Snoqualmie	Spokane
Squaxin Island	Stillaguamish
Suquamish	Swinomish
Tulalip	Upper Skagit
Yakama Nation	

When a vessel sale is made to an enrolled tribal member and delivery is made on that enrolled tribal member's reservation, the sale is exempt from state sales tax or use tax. To receive this exemption, the Retail Sales/Use Tax Exemption Certificate for Enrolled Tribal Members (see following) must be completed. An original signed copy must be submitted to the Department of Licensing with the title application. The seller and buyer should maintain copies of the exemption certificate.

NOTE: In order to be granted the exemption for delivery on tribal land, the tribe must have land designated as reservation land.



State of Washington
Department of Revenue
PO Box 47450
Olympia WA 98504-
7450

WASHINGTON STATE RETAIL SALES/USE TAX EXEMPTION CERTIFICATE FOR ENROLLED TRIBAL MEMBER

When a vehicle/vessel sale is made to an enrolled tribal member and delivery is made on that enrolled tribal member's reservation, the sale is exempt from state retail sales or use tax. To receive this exemption, this form must be completed. An original signed copy must be submitted to the Department of Licensing with title application. Copies of this form should be maintained by the seller and buyer.

Seller's Name _____

Address of Seller _____

Buyer's Name _____

Address of Buyer _____

Tribe of Enrollment _____ Enrollment No. _____

Year, Make and Model of Vehicle/Vessel _____

Vehicle Identification _____ Date of _____

Certification By Seller

I hereby certify that I personally examined the following documentary evidence submitted by the buyer above as proof of enrollment in the _____ Tribe.

Check documentation presented:

☐ Tribal membership card

☐ Official letter signed by tribal official

Additionally, I certify that the vehicle/vessel described above was delivered to the buyer on the Reservation of the _____ Tribe, of which the buyer documented tribal membership. This certificate is given with full knowledge of, and subject to, the legally prescribed penalties for fraud and tax evasion.

Signature of seller or agent of seller _____

Date _____

To inquire about the availability of this document in an alternate format for the visually impaired or in a language other than English, please call (360) 486-2342. Teletype (TTY) users may call (800) 451-7985. You may also access tax information on our Internet home page at <http://dor.wa.gov/>.

INTERSTATE AND FOREIGN CARRIERS**SECTION 9-D*****Exemption eligibility***

Persons engaged in the business of operating as a private or common carrier by water in interstate or foreign commerce are eligible for an exemption to retail sales tax on the vessel and component parts when transporting property or persons for hire.

Eligible watercraft

As defined for this exemption, watercraft includes every type of floating equipment which is designed for the purpose of carrying persons or cargo. It includes tow boats, but not floating dry docks, dredges or pile drivers or any similar equipment.

Component parts

Component parts includes all tangible personal property that is attached to and a part of the carrier property. It also includes spare parts designed for ultimate attachment to the carrier property.

Exemption Certificate required

Persons selling vessels and parts or performing services within this exemption, are required to obtain from the purchaser, or his authorized agent, a Interstate or Foreign Commerce Exemption Certificate evidencing the exempt nature of the transaction. See exemption certificate sample following. (WAC 458-20-175.) Income from selling vessels, component parts or making repairs to persons engaged in interstate commerce is reported under the Retailing of Interstate Transportation classification of the business and occupation tax.

INTERSTATE OR FOREIGN COMMERCE EXEMPTION CERTIFICATE

WE HEREBY CERTIFY that all the tangible personal property to be purchased from you will be for use in connection without business of operating as a (private or common) carrier by (air, rail or water) in (interstate or foreign) commerce; that all (airplanes, locomotives, railroad cars or watercraft) or component parts thereof, to be constructed, repaired, cleaned, altered or improved by you, will be used in conducting (interstate or foreign) commerce; and that all such sales are entitled to exemption from the Retail Sales Tax under the provisions of RCW 82.08.0261 and 82.08.0262.

Dated _____, _____.

Purchaser Signature _____

By _____
(Title-Officer or Agent)

Address _____

Department of Revenue Registration No. _____

(WAC 458-20-175)

DEEP SEA FISHING VESSELS**SECTION 9-E*****Commercial Deep Sea Fishing***

Commercial deep sea fishing is fishing done for profit outside the territorial waters of the state of Washington. It excludes sport fishing, operating charter boats for sport fishing, kelping, purse seining and gill netting because such fishing methods can be performed only within the territorial waters of this state. (WAC 458-20-176)

Sales Tax Exemption

Retail sales tax does not apply to sales of watercraft or component parts, labor and services for constructing, repairing, cleaning, altering or improving vessels which are primarily used in conducting commercial deep sea fishing. However, these sales are subject to the Retailing of Interstate Transportation classification of the business and occupation tax.

Component Parts

Component parts include all types of tangible personal property which are attached to or a part of the watercraft. They include dories, gurdies and accessories, bait tanks, baiting tables and turntables and spare parts designed for ultimate attachment to the watercraft. Equipment or furnishings which are not permanently attached to the vessel are not included, (i.e., bedding, utensils, fishing nets, hooks, ice, floats, and hand tools).

Documenting an Exempt Sale

Sellers of watercraft or component parts and/or related services are required to obtain from the purchaser a certificate evidencing the exempt nature of the transaction. The certificate must identify the purchaser by name and address, the vessel name, and contain a statement to the effect that the property purchased or repaired is for use primarily in commercial deep sea fishing operations. (See exemption certificate example following.)

COMMERCIAL DEEP SE FISHING EXEMPTION CERTIFICATE

I HEREBY CERTIFY that the _____ this day ordered from or purchased from you, will be used primarily in commercial deep sea fishing operations outside the territorial waters of the State of Washington; that the vessel is not for fishing inside such territorial waters, and is not rigged or equipped for such fishing; that the registered name of the watercraft to which said purchase applies is (vessel name) _____; and that said sale is entitled to exemption under the provisions of RCW 82.08.0262.

Dated _____, _____.

(Name of Purchaser)

By _____
(Name of officer or agent)

Address _____

(WAC 458-20-176)

MILITARY PERSONNEL**SECTION 9-F*****Military Personnel***

Military personnel stationed in Washington on more than a temporary basis are subject to sales/use tax on vessels and other property in the same manner as nonmilitary residents, regardless of any official "home of record" outside of Washington. Therefore, if a member of the armed services purchases a vessel or watercraft from a local dealer or broker, the dealer or broker should collect retail sales tax on the transaction. Sales made by United States government (i.e., the Post Exchange) to an authorized purchaser (military identification card holder) are not subject to retail sales tax. The authorized purchaser is also exempt from use tax.

Vessel Sales to Nonresident Military Personnel

These vessel sales will be taxed or exempted consistent with nonresident guidelines explained in section 9-B.

Temporary Military Orders

Personnel who meet the following three requirements can make purchases and avoid a sales tax liability on vessel trailers:

- The vessel and/or trailer will be licensed, documented and/or registered in the buyer's official "home state" and displays a valid registration or is removed from the premises with a 45 day permit (obtained from the dealer or the Department of Licensing);
- The vessel and/or trailer will not be used in Washington for more than 45 days; and
- The vessel and/or trailer is not required to be licensed or registered in Washington.

Documenting an Exempt Trailer Sale

To document a valid nonresident military sale, the seller must obtain and retain:

- Affidavits for trip permits or nonresident license plates (see section on sales to nonresidents); and
- A copy of current military orders showing that the customer is temporarily stationed in Washington (90 days or less), or a copy of military orders showing that the customer is permanently

reassigned to a new duty station outside
Washington and will leave within three months of
date of purchase.

GOVERNMENT SALES**SECTION 9-G*****City, County, and State
Entities***

Retail sales tax is due upon sales of vessels to the state of Washington, its departments and institutions and to counties, cities, school districts and all other municipal subdivisions of the state. There is no deduction to B&O tax provided for these types of sales. (WAC 458-20-189)

Federal Government

Retail sales tax is not due when the sale of a vessel or parts is made directly to the United States, its departments, institutions and instrumentalities, or agencies directly operated and controlled by the federal government. (There is no deduction of B&O allowed for these types of sales.) (WAC 458-20-190)

The sales tax exemption does not apply to sales to institutions which have been chartered or created under federal authority but which are not directly operated and controlled by the government for the benefit of the general public.

Sales to federal employees or representatives are fully subject to the retail sales tax even though the federal government may reimburse them for all or part of such expenses/purchases incurred. (See also Exemptions, Military.)

Exempt US Entities

To determine eligibility, see WAC 458-20-190.

FOREIGN GOVERNMENTS/DIPLOMATS**SECTION 9-H*****Sales to Foreign
Diplomats or Missions***

Foreign diplomats may be exempt from retail sales and use tax with limitations. The U.S. Department of State issues tax exempt cards to qualifying foreign diplomats or missions. The cards are color-coded and state the amount and type of items which may be purchased tax exempt. Refer to the Department's Special Notice on Foreign Diplomats.

Tax Reporting

Retailing B&O tax is still due for these transactions. The retail sales tax deduction may be shown as "sales to nonresidents or other" and explained as "exempt foreign diplomat."

Documenting Exempt Sales

Proof of valid exemption must be recorded by the seller and maintained for possible review by the Department. (WAC 458-20-254) All such records must be kept and preserved for a period of five years. (RCW 82.32.070)

TRADE-INS**SECTION 9-1*****Trade-in of like kind property***

A trade-in of like kind property reduces the measure of retail sales or use tax by the value of the property traded in. A valid trade-in is a transaction between a buyer and seller (either dealer or broker). A wrecked vessel may be traded-in toward the purchase of a working vessel.

Value of property traded-in

The seller and buyer establish the value of property traded-in. However, the parties may not overstate the value of the property traded-in in order to artificially lower the amount of sales or use tax due. Absent proof of a higher value, value must be determined by the fair market value of similar property of like quality, quantity, and age, sold or traded under comparable conditions.

(WAC 458-20-247)

Documenting a valid trade-in

“The property traded-in must be specifically identified and clearly indicated as “trade-in” by model, serial number and year of manufacture where applicable, and the full trade-in value must be shown on the sales agreement or invoice given to the purchaser, with a copy retained in the seller’s permanent sales records.” (WAC 458-20-247)

Any and all documents or accounting entries created by a sale are subject to examination and review by the Department. (RCW 82.32.070) To substantiate the validity of a trade-in for sales tax credit, the broker or dealer should retain documents/records for five years. These records should include copies of documentation verifying that the traded vessel, and all underlying obligations associated with it, were transferred to the party accepting the trade-in.

Vessel dealers and brokers are to retain bills of sale for traded in boats and are not required to transfer title while it is held for resale.

Acceptable documentation includes, but is not limited to, copies of the following:

- sales agreements between parties;
- bill of sale;
- commission or listing agreements between parties;
- financing agreements and transfers of obligation by lending institutions;
- title and transfer documents required by government agencies;
- evidence of transfer fees being paid; and
- evidence of funds being transferred between parties or through escrow accounts.

Encumbered Property

Encumbered property can be a trade-in provided that it will actually be transferred to the seller of the new or used property for which it is traded. The value of the trade in property will be the fair market value regardless of liens. (WAC 458-20-247)

Reporting Requirements

The vessel dealer's measure of gross receipts for the B&O tax is the full amount of the sale. The trade-in credit does not apply to the B&O tax. Retail sales tax is collected on the adjusted value of transactions after applicable trade-ins.

Vessel brokers report their gross commissions or fee earnings under the service and other activities classification of B&O tax. Retail sales tax is collected and remitted by the broker, on the adjusted value of a transaction after applicable trade-in or other exemptions or deductions. (WAC 458-20-224)

Tax Paid on Trade-in

To qualify for the sales tax trade-in exclusion, there is no requirement for tax to have been paid on item traded-in.

Valid Trade-in Examples

Example 1: Broker enters into a consignment sales contract with Susan Smith to sell her Boat A. John Doe contacts Broker expressing interest in purchasing Boat A, provided his Boat B is accepted as a trade-in on the purchase. John Doe executes a purchase agreement with Broker which specifically identifies both Boat A being purchased and the trade-in. Susan Smith declines to accept the trade-in, but Broker accepts delivery and ownership of Boat B and places Boat B into Broker's own inventory. In turn, Broker arranges delivery of the craft purchased to John.

The buyer (John Doe) has delivered the trade-in property (Boat B) to the Seller (Broker), who takes ownership of Boat B. There is no requirement that Broker purchase Boat A from Susan (thereby becoming the owner) prior to selling Boat A to John Doe and accepting Boat B as trade-in property because, as a broker, Broker is a seller under RCW 82.08.010. John Doe is entitled to the trade-in exclusion because Boat B was delivered to Broker as consideration paid towards the purchase of Boat A.

Example 2: Broker 1 enters into a consignment sale contract with Susan Smith to sell her Boat X. John Doe contacts Broker 2 expressing interest in purchasing Boat X, provided his Boat Y is accepted as a trade-in on the purchase. Broker 2 contacts Broker 1 about the possibility of entering into a Co-brokerage Agreement on the sale of Susan Smith's Boat X. John Doe executes a purchase agreement with Broker 1 which specifically identifies both Boat X being purchased and the trade-in Boat Y. Susan Smith declines to accept the trade-in, but Broker 1 accepts delivery and ownership of Boat Y and places it into Broker 1's own inventory. In turn, Broker 1 arranges delivery of Boat X to John Doe.

The buyer (John Doe) has delivered the trade-in property (Boat Y) to the Seller (Broker 1), who takes ownership of Boat Y. There is no requirement that Broker 1 purchase Boat X from Susan (thereby becoming the owner) prior to selling Boat X to John Doe and accepting Boat Y as trade-in property.

This situation qualifies for the trade-in allowance.

Example 3: Sally Jones decides to upgrade from her existing sailboat to a new, larger sailboat. The salesperson at the local sailboat dealership explains that while the dealership does not currently have on hand a sailboat meeting Sally's needs, it can order one for her from the manufacturer. The salesperson also explains that if Sally trades in her sailboat at the time she enters into the purchase contract, the dealership will accept the sailboat as one of three payments needed before the delivery of the new sailboat. Sally executes a purchase contract with the salesperson which specifically identifies both the new sailboat being purchased (valued at \$250,000) and the trade-in of her current boat (valued at

\$55,000). Sally signs the purchase contract, and the dealership orders the new sailboat, with a proposed delivery date of eight months hence. Sally makes a down payment of \$50,000. Four months later, Sally delivers the trade-in to the dealership. They agree the value of the trade-in is now \$50,000. The dealership accepts delivery of the trade-in sailboat as a second payment of \$50,000. Four months later, Sally takes delivery of her new sailboat and pays the dealership a final payment of \$150,000.

Sally is entitled to the trade-in exclusion of \$50,000 because the sailboat was delivered to the sailboat dealership as consideration paid towards her purchase of the new sailboat.

Example 4: Broker 1 enters into a consignment sales contract with Susan Smith to sell her Boat X. John Doe contacts Broker 2 expressing interest in purchasing Boat X, provided his Boat Y is accepted as a trade-in on the purchase. Broker 2 contacts Broker 1 about the possibility of entering into a Co-brokerage Agreement on the sale of Susan Smith's Boat A. John Doe executes a purchase agreement with Broker 1 which specifically identifies both Boat X being purchased and the trade-in Boat Y. Susan Smith declines to accept the trade-in of BOAT Y, but Broker 2 accepts delivery and ownership of Boat B and places Boat B into Broker's own inventory. In turn, Broker 1 arranges delivery of Boat A to John Doe. The buyer (John Doe) has delivered the trade-in property (Boat Y) to the Seller (Broker 2), who takes ownership of Boat Y. There is no requirement that Broker 2 purchase Boat X from Susan (thereby becoming the owner) prior to selling Boat X to John Doe and accepting Boat Y as trade-in property.

If pursuant to a sales contract, Broker 2 is authorized to receive a sales commission on selling Boat X, Broker 2 can take Boat Y into inventory as a trade-in against the purchase of Boat X and have the transaction qualify for the trade-in allowance.

Example 5: Broker enters into a consignment sales contract with Susan Smith to sell her Boat A valued at \$100,000. John Doe contacts Broker expressing interest in purchasing Boat A, provided his Boat B, valued at \$50,000, is accepted as a trade-in on the purchase. John Doe executes a purchase agreement with Broker which specifically identifies both Boat A being purchased and the trade-in.

Susan Smith agrees to take the trade-in, and accepts delivery of Boat B from John Doe. In turn the Broker arranges delivery of Boat A to John.

The buyer (John Doe) has delivered the trade-in property (Boat B) to the Seller (Susan Smith), who takes ownership of Boat B. She may either sail off into the sunset with Boat B or she may enter into a new consignment arrangement with Broker for the sale of Boat B. John Doe is entitled to the trade-in exclusion of \$50,000 because Boat B was delivered to Susan Smith as consideration paid towards his purchase of Boat A.

Example 6: Is “constructive possession” required to gain the trade-in allowance?

The requirements for a valid trade-in are established in WAC 458-20-247 and further discussed in the guide on pages 58-61. One of the requirements to gain the trade-in allowance (for application of retail sales tax), is that the original boat owner must accept the like-kind property as a reduction in the selling price of the original boat being sold. It is not necessary **for tax purposes** that a boat, accepted by a seller as a trade-in against the price of another boat, be registered with the Department of Licensing before that traded-in boat is resold.

Example 7: Broker A has a 40’ sailboat listed for \$65,000. Broker B has a potential buyer for this vessel, but his client wants to trade-in an older motor boat as part of the consideration. The sailboat owner is reluctant, but agrees to the transaction. Both parties agree on a value for the trade-in. All transaction records and ownership transfers occur.

Broker A's customer may place the vessel up for sale or keep it.

Example 8: Broker A has a buyer (Customer Y) for a listed vessel, but the selling owner (Customer X) is unwilling to accept a trade-in as part of the payment. The sale will not occur unless Broker A purchases Customer X's vessel and then accepts Customer Y's trade-in. Both customers agree to carry promissory notes as financing/flooring on the vessels involved, but Broker A has complete risk of loss/gain while in his possession. Broker A wants to make the sale and so decides to proceed with the transaction.

Broker A has become a vessel dealer. The sale to Customer Y is taxable on the full amount under the retailing B&O classification. Retail sales tax is measured against the sale amount after the trade-in value which has been negotiated between the broker/dealer and customer. Broker A has the traded-in vessel in inventory.

Example 9: Broker A has Customer JO's \$100,000 vessel listed for sale. Customer SAM offers to buy the vessel but wants to trade-in his vessel worth \$125,000. SAM is willing to accept a \$25,000 promissory note on the balance due for the vessel. JO agrees to the trade-in knowing that he/she has complete liability for the note regardless of how much the larger vessel eventually sells for.

This is a trade down for SAM, but is a trade-in for JO who owes retail sales tax on the \$25,000. The result is the same if the \$25,000 was a cash payment.

Example 10: Customer Q owns a 50' motor boat and wants to trade it in on the purchase of a new boat from Dealer Z. The purchase agreement is created and both parties agree on a trade-in value of \$50,000. The purchase balance is due in full at time of delivery of the new vessel, estimated to occur in six months.

Title (or assumption of risk, underlying liability) to Customer Q's fifty footer must pass to the dealer prior to delivery of the new vessel as agreed within the purchase contract. It must become part of Dealer Z's

inventory. The trade-in value was agreed upon when the transaction was negotiated and cannot be contingent on its subsequent sale. Sales tax is due on the purchase cost of the new vessel less the \$50,000 trade-in value.

SPECIAL NOTE: Once a vessel is in a dealer's inventory, allowing the owner to use it is considered "bailment."

COMMERCIAL VESSELS**SECTION 10*****Personal Property Tax***

Commercially operated vessels exempted from the Watercraft Excise Tax are subject to the state school levy portion of the personal property tax. Vessels used exclusively for commercial fishing purposes and U.S. Coast Guard documented vessels used primarily for commercial purposes such as charter and time-share boats, tugs and barges are subject to this tax. The tax rate is limited to no more than \$3.60 per one thousand dollars (\$1,000) of market value.

Vessel Listing Requirements

Vessels subject to the personal property tax are listed with and assessed by the Special Programs Division of the Department of Revenue. All vessels are taxable for the entire year unless they are apportionable. Through apportionment, an owner may deduct those days the vessel is out of state. They may also deduct those days that the vessel is in state *exclusively* for repairs. The tax is a personal property tax and is based on the status of the vessel in the state. It is not based on use, like the Watercraft Excise Tax for pleasure craft.

Each January, the Department sends a ***Watercraft Personal Property Notice of Value*** to the vessel owner of record. This documents the market value, and asks each apportionable vessel to report how many days the vessel was in the state the previous year.

Tax Based on Ownership

The Department of Revenue bills and collects personal property tax. The tax is based on who owns the vessel as of January 1st of a given year. This is the assessment year.

In the year following the assessment year, the vessel owner is mailed a tax statement in mid-February. Full payment is due April 30th.

Example: Commercial vessel Z is purchased on August 14, 1995. The new owner's first taxable year is 1996, as January 1, 1996 is his first January 1 of ownership. The 1996 tax will be collected by April 30, 1997, and the tax is based on the number of taxable days the vessel was in the state in 1995.

***Vessel Sold or Converted to
Pleasure Use***

If the vessel is sold or converted to pleasure use in the middle of the year, the personal property tax is still the responsibility of the owner of record on January 1 of that year. If selling the boat, include the tax responsibility in the contract and contact the Commercial Vessel Tax unit, at (360) 753-1520, for the amount of tax due. If converting the vessel to pleasure use, contact the Commercial Vessel Tax unit for guidance. Payment in these instances can be made two ways: either wait for the bill next year or pay in advance.

Use tax is due on vessels converted to personal use.

***Property Tax Decal
Requirements***

Vessels listed with the Special Programs Division on the personal property tax rolls receive a permanent orange decal that is to be displayed on the hull evidencing that the vessel is registered. (It is also the account number of the vessel with the Department of Revenue.) Commercial vessels that have the **look of pleasure craft and are U.S. Coast Guard documented are also required to display a second, annual decal** whose color changes each year in coordination with the Department of Licensing Watercraft Excise Tax decal color.

How to Register

To list your vessel, complete and return a Commercial Watercraft Personal Property Listing Of Ships And Vessels form to the Commercial Vessel Tax Program, Special Programs Division, Department of Revenue. The listing form requests basic information about you, your business and your vessel.

Should you need assistance completing the form, call the Commercial Vessel Tax unit at (360) 753-1520.



State of Washington
Department of Revenue
PO Box 47477
Olympia WA 98504-
7477

**COMMERCIAL WATERCRAFT
PERSONAL PROPERTY
LISTING OF SHIPS AND VESSELS**

➔ Date Due:

Vessel Name:

Commercial Vessel Tax No.:

UBI No.:

Note: If this vessel is registered with the Department of Licensing as a pleasure craft and the Watercraft Excise Tax has been paid, please return this listing along with a copy of your Certificate of Registration showing payment of that tax.

A. CURRENT OWNER/PURCHASER

If partnership, attach list of all partners and spouses. If

corporation, attach annual list of corporate officers and FEIN number. Provide attachments in the following format.

Owner's Name (last, first, middle): _____

Birthdate: _____ Social Security No.: _____

Home Address: _____

Mailing Address (if different): _____

Spouse's Name: _____

Birthdate: _____ Social Security No.: _____

Is the name of the spouse to appear on the listing? ☐ Yes ☐ No

Home Phone: () _____ Contact Message Phone: () _____

If listed under a business name:

Physical Address: _____

Mailing Address: _____

Business Phone: () _____ Fax No.: () _____

If leased, complete the following:

Lessor Name: _____

Lessor Address: _____

Lessor Phone: () _____ Fax No.: () _____

B. SELLER INFORMATION

Seller's Name: _____ OID (Owner ID) No.: _____

Seller's Current Address: _____

Seller's Contact Phone: () _____

C. PURCHASE PRICE DETAIL

(Attach a copy of the Purchase/Sale Agreement)

Date of Purchase: _____

Ship or Vessel Price \$ _____

Motor Price (if separate)..... \$ _____

Accessories Price (if separate)..... \$ _____

Total Purchase Price (exclude fees, licenses, and taxes) ... \$ _____ 0.00

Date of Entry into Washington Waters for Commercial Purposes (month/day/year) _____

D. SHIP OR VESSEL

Length: _____ Width: _____ Depth: _____

Make: _____ Model: _____ Year Built: _____

Hull Material (check one): ☐ Aluminum ☐ Fiberglass ☐ Steel ☐ Wood ☐ Other _____**Engine Type (check one):** ☐ Single Diesel ☐ Single Gas ☐ Outboard Only☐ Twin Diesel ☐ Twin Gas ☐ I/O Only☐ Triple Diesel ☐ Triple Gas

Year: _____ Make: _____ Model: _____ Horsepower _____

Type of Use (check one):

1. ☐ Commercial Fishing (a) ☐ Trawler (b) ☐ Purse Seiner (c) ☐ Longliner
(d) ☐ Gillnet (e) ☐ Crabber (f) ☐ Other (specify) _____

Constructed per Classification Society Standards? ☐ Yes ☐ No

If yes, specify Classification Society: _____

Capacity in cubic feet of refrigeration and cooling equipment: _____

Type of chilling: ☐ Water ☐ Ice ☐ Brine2. ☐ Charter/Time Share (a) ☐ Bareboat (b) ☐ Skippered (c) ☐ Powered (d) ☐3. ☐ Freight (a) ☐ Barge, Covered (b) ☐ Barge, Uncovered (c) ☐ Other4. ☐ Towing/Pushing (a) ☐ Towboat (b) ☐ Pushboat5. ☐ Other (specify) _____6. ☐ Personal Pleasure (If checked, refer to note on front page)

Department of Licensing WN No.: _____

Federal
Documentation No.: _____Dept. of Fish/Wildlife
Vessel Registration No.: _____

Hull Identification No.: _____ Port of Registry: _____

Name of Moorage Facility: _____ Dock/Slip No.: _____

Address of Facility: _____ County in Which Moored: _____

E. SIGNATURE

The undersigned hereby certifies that to the best of their knowledge the above information is true and correct.

Name (Print): _____ Date: _____

Name (Signature): _____

TAX DECAL

DEALERS PERMIT FOR DEMONSTRATION

O P E R A T O R	NAME AND ADDRESS
	SIGNATURE

The above named is authorized to operate the described vehicle/vessel for the purpose of purchase during the period indicated below. This permit is subject to inspection by all law enforcement officers when the vehicle/vessel is being operated for demonstration.

V E S S E L	YR	MAKE	SERIES OR TYPE	DATE From To
	NAME AND ADDRESS			DEALER NO. _____
SIGNATURE				

DLR-430-217 DEALER DEMONSTRATION PERMIT (R/6/87)



VESSEL DEALER IDENTIFICATION CARD

This is to certify that:

Employee Name

Employee Signature

☐ IS A BONAFIDE EMPLOYEE OF☐ IS AN OWNER/OFFICER OF

Dealer Name and Address

Dealer Number

Date

Dealer Signature

Title

AUDIT/COMPLIANCE PROCESSES**SECTION 11*****Audit Selection and Preparation***

Audits are a routine procedure used to determine whether state excise taxes have been reported and paid correctly. The majority of businesses audited by the Department are chosen using statistical methods.

In general, records will be reviewed for the four preceding calendar years, plus the current year through the end of the last calendar quarter. Records reviewed will include all taxes, deductions and exemptions reported on your *Combined Excise Tax Return*. An audit of your business activities will cover several major areas, including:

1. **Income** - verification of proper amounts and classifications reported on the return.
2. **Deductions and exemptions** - verification of proper amounts, classifications and documentation.
3. **Purchases** - verification of retail sales or use tax paid on capital assets, consumable supplies, or articles manufactured for the business's own use.

After the Audit

You will be notified of any tax differences following the Department's review of your records. The auditor will explain each adjustment to you or your representative. If you believe there is a mistake, or you have further information for consideration, promptly notify the auditor.

In most cases, the audit is finalized within four to six weeks, depending upon the availability and condition of the records. Copies of all applicable schedules, laws and rules are provided to you. You have 30 days from the date the audit was issued to pay the tax and interest in full, or to file an appeal. Nonpayment of the tax assessment will result in additional interest and penalties. If payment of the assessment cannot be made in full by the due date, contact the audit manager immediately to discuss your circumstances.

When Compliance Action Occurs

If a credit is owed to you for overpayment of taxes, a credit notice or refund will be mailed to you. Taxes remaining unpaid after their established due date

create delinquent account indicators requiring follow-up action by the Department's Compliance Division. Additional interest and penalties continue to accrue on unpaid taxes until the liability is paid in full.

Most compliance action begins with a computerized notice indicating that tax assessed has not been paid by the due date. It can move quickly to the personal attention of a Revenue Agent. Revenue Agents will attempt to contact you by telephone and/or letter and may even visit your business.

If you do not respond or make satisfactory arrangements to pay your bill, the Department will issue and file a tax warrant.

A tax warrant states the amount of tax, penalty and interest due and references the delinquent tax periods or tax types. Tax warrants remaining unpaid after 10 days are filed with the clerk of a Superior Court. The filed tax warrant creates a public information lien against real and personal property for the amount of money owed. The perfected lien authorizes the Department to withhold on liquid assets and, in extreme cases, seize property to satisfy the unpaid taxes.

The Department has the authority to revoke a business' tax registration endorsement if a filed tax warrant remains unpaid after 30 days. Conducting business in Washington after your certificate of registration has been revoked is a Class "C" felony.

The Department has the ability to hold individuals personally liable for sales taxes collected, but not remitted on corporate accounts. The Department can also utilize out-of-state collection agencies when necessary and appropriate.

If at any time in the compliance process you pay outstanding taxes, penalties and interest in full, collection actions will immediately stop and any liens will be satisfied.

Avoid compliance attention by:

- notifying the Department of address changes and requesting tax return forms promptly if you do not receive one by mail;

Options to Compliance Action

- depositing collected sales tax into a separate account and withdrawing the funds only when you pay the taxes and file the tax return;
- paying careful attention to due dates, final audit reports, use tax assessments or balance due notices from the Department; and
- being sure to open and read information sent to you by the Department.

If you are able, obtain financing to pay your taxes. If full and immediate payment will create an extreme financial hardship, you may discuss a payment plan with the Revenue Agent. You will be asked to provide financial records to demonstrate the need for payments. In most cases, payment plans require the taxpayer to keep current with agreed payments and the issuance and filing of a tax warrant.

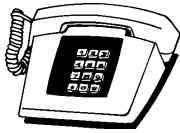
Bankruptcy will temporarily postpone departmental compliance actions, but upon discharge, outstanding taxes, penalties and interest are still due.

***Appeal Rights to Audit
and Compliance Action***

If you disagree with an auditor's findings or believe a Revenue Agent's actions are unreasonable, call the local field office to schedule a conference with that person's supervisor. If your issues are not resolved at that time, you will be provided with further appeal instructions. Unprotested taxes must still be paid. If appeal deadlines are not met, the taxes, interest and penalties must be paid in full before re-initiating the appeal process.

RESOURCE SECTION**SECTION 12**

To make reporting taxes as convenient as possible, the Department of Revenue provides a variety of services.

**TELEPHONE
ASSISTANCE****Telephone Information Center**
Toll Free — 1-800-647-7706

With its state-of-the-art telephone system, the Telephone Information Center offers a variety of personal and 24-hour automated services to both Touch Tone™ and rotary dial callers.

The Center's Tax Information Specialists provide assistance in registering businesses, completing tax returns, and responding to general questions. Specialists are generally available to answer questions Monday, Tuesday, Thursday and Friday, 7:30 AM to 5:00 PM and **Wednesdays 9:00 AM to 5:00 PM (Pacific Time)**.

Persons who do not need to speak with a specialist may use the Center's automated features to change an address, close an account, clear a delinquent notice, or request a publication, tax form, or Master Application.

Fast Fax**Toll Free — 1-800-647-7706****Direct Call — (360)486-2345**

Fast Fax, the Telephone Information Center's fax on demand service, provides 24-hour access to a variety of the Department's forms and publications. To receive a fax listing forms and publications available via *Fast Fax*, use code 500. Internet users may also access the list on the Internet at:

<http://dor.wa.gov/Docs/Pubs/Misc/fastfax.pdf>

TELEPHONE ASSISTANCE CONTINUED . . .	<i>Tax Express</i> <i>1-800-334-8969</i> For Touch Tone™ callers, <i>Tax Express</i> provides prerecorded information on a variety of tax-related topics 24-hours a day. Accessing the messages requires use of a three-digit code. A menu for <i>Tax Express</i> appears in “Additional Reference Materials” chapter.
WRITTEN RULINGS	Tax Information Specialists in the Department’s Taxpayer Information and Education Section respond to written inquiries for tax information. Unlike oral advice, written advice is binding on the Department providing the taxpayer’s name and all pertinent facts are disclosed. Inquiries may be sent to: <div style="padding-left: 40px;"> Taxpayer Services Washington State Department of Revenue Post Office Box 47478 Olympia, Washington 98504-7478 </div>
EXCISE TAX MAINTENANCE SERVICE	Persons who subscribe to the Department’s Excise Tax Maintenance Service receive notices of proposed rule changes, and new and amended rules. To subscribe to the Excise Tax Maintenance Service, call the Department’s Telephone Information Center at 1-800-647-7706.
WASHINGTON TAX DECISIONS — PUBLISHED DETERMINATIONS	Appeals, the Department’s appellate division, routinely hears and provides written decisions on appeals of excise tax assessments and petitions for refund. The decisions, referred to as determinations, are confidential. Only the taxpayer for whom it is written may rely on the information contained in a determination. Some determinations, however, are published after information identifying the taxpayer is removed.

**WASHINGTON TAX
DECISIONS —
PUBLISHED
DETERMINATIONS**
CONTINUED . . .

Published determinations have precedential value and may be relied upon by the Department and all taxpayers. When deciding whether to publish a determination, the Department considers whether:

- The issue under appeal is a matter of first impression;
- There has been a change in the statute or rules since a similar issue was decided;
- There are distinguishable fact patterns between the current appeal and a previously published determination on a similar issue;
- There is a recent court decision concerning the issue on appeal; and
- The length of time since the last published determination was issued on a similar issue.

Published determinations are referred to as *Washington Tax Decisions*. The Department publishes *Washington Tax Decisions* annually in two parts. The decisions are electronically available through CD Law and the Department's Internet web site at **<http://taxpedia.dor.wa.gov/zipfiles.htm>**.

INTERNET

Internet users can access Washington State tax information via the Department of Revenue's World Wide Web site. Users can access the Department's newsletters, fact sheets, brochures, forms, press releases, rules and laws, published determinations, state business records and unclaimed property databases, research reports, and more.

The Department of Revenue's Internet address is:

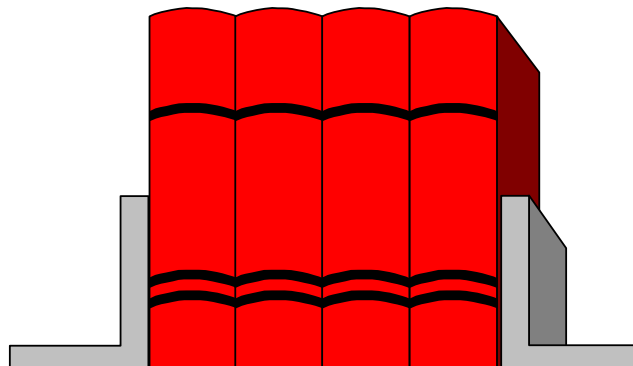
<http://dor.wa.gov>

Other Washington State agencies also provide information via the Internet. For information about employer taxes, see the following sites:

Washington State Employment Security Department
<http://www.wa.gov/esd>

Washington State Department of Labor and Industries
<http://www.lni.wa.gov/>

INTERNET CONTINUED . . .	<p>For general business licensing information, see the following site:</p> <p>Washington State Department of Licensing http://www.wa.gov/dol/bpd/buslic.htm</p> <p>For information about corporations, trademarks, and limited partnerships, see the following site:</p> <p>Washington State Office of the Secretary of State http://www.secstate.wa.gov/</p>
SPEAKER'S BUREAU	<p>The Speaker's Bureau program provides speakers on a variety of tax issues for businesses and organizations. To reserve a speaker, call the Speaker's Bureau Coordinator at (360)486-2111.</p>
TAXPAYER RIGHTS ADVOCATE	<p>The Department of Revenue's Taxpayer Rights Advocate provides assistance in understanding and accessing taxpayer rights in working with the Department of Revenue. The number for the advocate is (360)486-2340.</p>
CONTACTS	<p>Special Programs Division Commercial Vessel Tax PO Box 47477 Olympia WA 98504-7477 (360) 753-1520 Fax (360) 586-2163</p>



GLOSSARY**SECTION 13**

Listed below are common vessel industry terms as defined and applied by the State of Washington Department of Revenue.

<i>Apportionable vessel</i>	Ship or vessel engaged in interstate commerce, foreign commerce and/or engaged exclusively in fishing, tendering, harvesting, and/or processing seafood products on the high seas or waters under the jurisdiction of other states. (WAC 458-17-105)
<i>Apportionment</i>	Method of dividing or attributing gross business income between Washington and elsewhere. Income subject to the "service" classifications of B&O tax (taxable under RCW 82.04.290) may be apportioned if out-of-state activities contribute to the performance of the service. (RCW 82.04.460 and WAC 458-20-194)
<i>Appraisal</i>	Valuation or an estimation of the value of property by disinterested persons of suitable qualification. The process of ascertaining a value of an asset or liability that involves expert opinion rather than explicit market transactions. (<i>Black's Law Dictionary</i>)
<i>Bailment</i>	Act of granting to another the temporary right of possession to and use of tangible personal property for a stated purpose without consideration to the grantor.
<i>Broker</i>	Generally, considered a seller under RCW 82.08.010 and as such must collect sales tax and may take trade-ins of like-kind property to qualify for the trade-in reduction and reduce the amount subject to retail sales tax collection. A person who, for a commission or fee, brings parties together and assists in negotiating contracts between them. A broker generally performs services to bring the buyer and seller of a vessel together and usually receives compensation based on a percentage of the sales price. (WACs 458-20-159, 221 and 247)
<i>Casual/Isolated Sale</i>	Sale made by a person who is not engaged in the business of selling the type of property involved. (WAC 458-20-106)

<i>Commercial vessel</i>	A vessel used in an activity or enterprise that has profit-making as its primary purpose.
<i>Consignment</i>	To entrust the physical possession of one's personal property to another, usually an agent, for sale.
<i>Consumer</i>	Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of his business...other than for the purpose of resale as tangible personal property in the regular course of business. (RCW 82.04.190)
<i>Dealer</i>	Considered a seller under RCW 82.08.010 and as such must collect sales tax and may take trade-ins of like-kind property to qualify for the trade-in reduction and reduce the amount subject to retail sales tax collection. Person, partnership, association, or corporation engaged in the business of selling vessels at wholesale or retail in this state. (Definition from Department of Licensing RCW 88.02.010)
<i>Delivery</i>	Transfer of possession completing a sale.
<i>Department</i>	Washington State Department of Revenue.
<i>Demonstration</i>	As defined in Webster's II, "1. The act of making evident or proving." See section 8 for additional information about tax application pertaining to "demonstration."
<i>Dominion and control</i>	The possession and/or ability to exercise a restraining or directing influence over the use and operation of an object. With regard to boat charters, dominion and control is had by the boat owner or the charter business when it provides an operating crew to the customer. In a bareboat charter where no crew is provided by the owner or charter business, the customer generally has dominion and control.
<i>Encumbrance</i>	A claim, lien, charge, or liability attached to, or binding, tangible personal property.
<i>Fair market value</i>	The amount a seller may expect to equitably receive in the open market for like merchandise, services or commodities sold.

<i>Finder fee</i>	Fee for the referral of a buyer to a broker or dealer.
<i>Gross Proceeds of Sales</i>	Value proceeding or accruing from the sale of tangible personal property without any deduction on account of the cost of property sold, the cost of materials used, labor costs, interest, discount paid, delivery costs, taxes or any other expense whatsoever paid or accrued and without any deduction on account of losses. (RCW 82.04.070)
<i>Intervening use</i>	Personal or business use as a consumer of tangible property which was originally purchased for resale. (WAC 458-20-178)
<i>Lease</i>	Act of granting to another the right of possession to, and use of, property for consideration.
<i>Lessee</i>	One who rents or leases property <u>from</u> another.
<i>Lessor</i>	One who rents or leases property <u>to</u> another.
<i>Like Kind Property</i>	Articles of tangible property of the same generic classification, which are traded in as consideration toward a new purchase. It refers to the class and kind of property, not to its grade or quality. The term includes all property within a general classification rather than within a specific category in the classification. Examples include a sailboat for a motorboat, and a car for a pickup truck. (WAC 458-20-247)
<i>Marine survey</i>	Statement of a vessel's present condition. A document, looked to both by underwriters and owners, as affording the means of ascertaining, at the time and place, the state, condition and fair market value of the vessel.
<i>Nexus</i>	"The activity carried on by the seller in Washington that is significantly associated with the seller's ability to establish or maintain a market for its products in Washington." (WAC 458-20-193)
<i>Owner</i>	Person having lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest. (RCW 88.02.010)

<i>Owner, legal</i>	Person, business, or institution having a security interest in a vessel perfected in accordance with RCW 46.12.095 or the registered owner of a vessel unencumbered by a security interest or the lessor of a vessel unencumbered by a security interest. (WAC 308-93-010)
<i>Rental</i>	See "lease."
<i>Resale</i>	Selling goods (and certain services) which have not been used by the seller as a consumer. (WAC 458-20-102)
<i>Resale Certificate</i>	Document substantiating the wholesale nature of a sale. (WAC 458-20-102)
<i>Resident</i>	Person who manifests an intent to live or be located in this state on more than a temporary or transient basis regardless of whether that person is a resident of another state or country. (RCW 46.16.028)
<i>Retail sale</i>	Includes every sale of tangible personal property to a consumer. Services such as installing, repairing, cleaning, altering, improving, constructing, or decorating real or personal property for a consumer also fall within the definition of a retail sale. A variety of other services are statutorily defined as retail sales. Examples include amusement and recreational activities, title insurance services and escrow services.
<i>Sale</i>	Any transfer of the ownership of, title to, or possession of, property for a valuable consideration. (WAC 458-20-103)
<i>Sea Trial</i>	A short voyage, usually less than one day, to check out the mechanical functions of a vessel.
<i>Seller</i>	Means every person who has the right to transfer ownership of property. This includes brokers, consignees, bailees, factors, agents and auctioneers selling in their own name. (RCW 82.08.010, WAC 458-20-159).
<i>Selling price</i>	Total consideration, whether money, credits, rights, or other property expressed in terms of money. (RCW 82.08.010)
<i>ShakeDown</i>	A short voyage for the purpose of breaking in a new vessel, the engines and/or the crew to sea-going conditions and requirements.

Trade-in

Property of like kind to that acquired in a retail sale which is applied, in whole or in part, toward the selling price. (WAC 458-20-247)

Use, Used, Using

First act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer). This includes installation, storage, withdrawal from storage, and any other act preparatory to subsequent actual use or consumption within this state. (RCW 82.12.010)

Use Tax

Complement to (in lieu of) the retail sales tax. A tax (of like amount to the sales tax) upon the use within this state as a consumer of any article of tangible personal property purchased at retail or acquired by lease, gift, repossession, or bailment, or extracted, produced or manufactured by the person so using the same, where the user, donor or bailor has not paid retail sale tax with respect to the property used.

